

House File 2422

H-8138

1 Amend House File 2422 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 144A.7, subsection 1, paragraph
5 a, Code 2014, is amended to read as follows:

6 a. The attorney in fact designated to make
7 treatment decisions for the patient should such person
8 be diagnosed as suffering from a terminal condition, if
9 the designation is in writing and complies with chapter
10 144B ~~or section 633B.1.~~

11 Sec. 2. Section 231E.3, subsection 15, Code 2014,
12 is amended to read as follows:

13 15. "Power of attorney" means a durable power of
14 attorney for health care as defined in section 144B.1
15 or a power of attorney ~~that becomes effective upon the~~
16 ~~disability of the principal as described in section~~
17 ~~633B.1~~ executed pursuant to chapter 633B.

18 Sec. 3. NEW SECTION. 633B.101 Title.

19 This chapter shall be known and may be cited as the
20 "*Iowa Uniform Power of Attorney Act*".

21 Sec. 4. NEW SECTION. 633B.102 Definitions.

22 1. "Agent" means a person granted authority to act
23 for a principal under a power of attorney, whether
24 denominated an agent, attorney in fact, or otherwise.
25 The term includes an original agent, coagent, successor
26 agent, and a person to which an agent's authority is
27 delegated.

28 2. "Conservator" or "conservatorship" means a
29 conservator appointed or conservatorship established
30 pursuant to sections 633.570 and 633.572 or a similar
31 provision of the laws of another state.

32 3. "Durable", with respect to a power of attorney,
33 means not terminated by the principal's incapacity.

34 4. "Electronic" means relating to technology having
35 electrical, digital, magnetic, wireless, optical,
36 electromagnetic, or similar capabilities.

37 5. "Good faith" means honesty in fact.

38 6. "Guardian" or "guardianship" means a guardian
39 appointed or a guardianship established pursuant to
40 sections 633.556 and 633.560 or a similar provision of
41 the laws of another state.

42 7. "Incapacity" means the inability of an
43 individual to manage property or business affairs
44 because the individual is any of the following:

45 a. An individual whose decision-making capacity
46 is so impaired that the individual is unable to
47 make, communicate, or carry out important decisions
48 concerning the individual's financial affairs.

49 b. Missing.

50 c. Detained, including but not limited to an

1 individual incarcerated in a penal system.
2 *d.* Outside the United States and unable to return.
3 8. "*Person*" means an individual, corporation,
4 business trust, estate, trust, partnership, limited
5 liability company, association, joint venture, public
6 corporation, government or governmental subdivision,
7 agency, or instrumentality, or any other legal or
8 commercial entity.
9 9. "*Power of attorney*" means a writing or other
10 record that grants authority to an agent to act in the
11 place of the principal, whether or not the term "power
12 of attorney" is used.
13 10. "*Presently exercisable general power of*
14 *appointment*", with respect to property or a property
15 interest subject to a power of appointment, means
16 power exercisable at the time in question to vest
17 absolute ownership in the principal individually, the
18 principal's estate, the principal's creditors, or the
19 creditors of the principal's estate. The term includes
20 a power of appointment not exercisable until the
21 occurrence of a specified event, the satisfaction of an
22 ascertainable standard, or the passage of a specified
23 period of time only after the occurrence of the
24 specified event, the satisfaction of the ascertainable
25 standard, or the passage of the specified period of
26 time. The term does not include a power exercisable in
27 a fiduciary capacity or only by will.
28 11. "*Principal*" means an individual who grants
29 authority to an agent in a power of attorney.
30 12. "*Property*" means anything that may be the
31 subject of ownership, whether real or personal, or
32 legal or equitable, or any interest or right therein.
33 13. "*Record*" means information that is inscribed on
34 a tangible medium or that is stored in an electronic or
35 other medium and is retrievable in perceivable form.
36 14. "*Sign*" means, with present intent to
37 authenticate or adopt a record, to do any of the
38 following:
39 *a.* Execute or adopt a tangible symbol.
40 *b.* Attach to or logically associate with the record
41 an electronic sound, symbol, or process.
42 15. "*State*" means a state of the United States, the
43 District of Columbia, Puerto Rico, the United States
44 Virgin Islands, or any territory or insular possession
45 subject to the jurisdiction of the United States.
46 16. "*Stocks and bonds*" means stocks, bonds, mutual
47 funds, and all other types of securities and financial
48 instruments, whether held directly, indirectly, or in
49 any other manner. The term does not include commodity
50 futures contracts and call or put options on stocks or

1 stock indexes.

2 Sec. 5. NEW SECTION. 633B.103 **Applicability.**

3 This chapter applies to all powers of attorney
4 except for the following:

5 1. A power to the extent it is coupled with an
6 interest of the agent in the subject of the power,
7 including but not limited to a power given to or for
8 the benefit of a creditor in connection with a credit
9 transaction.

10 2. A power to make health care decisions.

11 3. A proxy or other delegation to exercise voting
12 rights or management rights with respect to an entity.

13 4. A power created on a form prescribed by a
14 government or governmental subdivision, agency, or
15 instrumentality for a governmental purpose.

16 Sec. 6. NEW SECTION. 633B.104 **Durability of power**
17 **of attorney.**

18 A power of attorney created under this chapter
19 is durable unless the power of attorney expressly
20 provides that it is terminated by the incapacity of the
21 principal.

22 Sec. 7. NEW SECTION. 633B.105 **Execution.**

23 A power of attorney must be signed by the principal
24 or in the principal's conscious presence by another
25 individual, other than any prospective agent, directed
26 by the principal to sign the principal's name on
27 the power of attorney. A power of attorney must be
28 acknowledged before a notary public or other individual
29 authorized by law to take acknowledgments. An agent
30 named in the power of attorney shall not notarize the
31 principal's signature. An acknowledged signature on a
32 power of attorney is presumed to be genuine.

33 Sec. 8. NEW SECTION. 633B.106 **Validity.**

34 1. A power of attorney executed in this state on or
35 after July 1, 2014, is valid if the execution of the
36 power of attorney complies with section 633B.105.

37 2. A power of attorney executed in this state
38 before July 1, 2014, is valid if the execution of the
39 power of attorney complied with the law of this state
40 as it existed at the time of execution.

41 3. A power of attorney executed other than in this
42 state is valid in this state if, when the power of
43 attorney was executed, the execution complied with any
44 of the following:

45 a. The law of the jurisdiction that determines the
46 meaning and effect of the power of attorney pursuant
47 to section 633B.107.

48 b. The requirements for a military power of
49 attorney pursuant to 10 U.S.C. §1044b, as amended.

50 4. Except as otherwise provided by law, a photocopy

1 or electronically transmitted copy of an original power
2 of attorney has the same effect as the original.

3 Sec. 9. NEW SECTION. 633B.107 **Meaning and effect.**

4 The meaning and effect of a power of attorney is
5 determined by the law of the jurisdiction indicated
6 in the power of attorney and, in the absence of
7 an indication of jurisdiction, by the law of the
8 jurisdiction in which the power of attorney was
9 executed.

10 Sec. 10. NEW SECTION. 633B.108 **Nomination
11 of conservator or guardian — relation of agent to
12 court-appointed fiduciary.**

13 1. Under a power of attorney, a principal may
14 nominate a conservator of the principal's estate or
15 guardian of the principal's person for consideration
16 by the court if proceedings for the principal's
17 estate or person are begun after the principal
18 executes the power of attorney. Except for good cause
19 shown or disqualification, the court shall make its
20 appointment in accordance with the principal's most
21 recent nomination. This section does not prohibit an
22 individual from executing a petition for the voluntary
23 appointment of a guardian or conservator on a standby
24 basis pursuant to sections 633.560 and 633.591.

25 2. If, after a principal executes a power of
26 attorney, a court appoints a conservator of the
27 principal's estate or other fiduciary charged with
28 the management of some or all of the principal's
29 property, the power of attorney is suspended unless
30 the power of attorney provides otherwise or unless the
31 court appointing the conservator decides the power of
32 attorney should continue. If the power of attorney
33 continues, the agent is accountable to the fiduciary as
34 well as to the principal. The power of attorney shall
35 be reinstated upon termination of the conservatorship
36 as a result of the principal regaining capacity.

37 Sec. 11. NEW SECTION. 633B.109 **When power of
38 attorney effective.**

39 1. A power of attorney is effective when executed
40 unless the principal provides in the power of attorney
41 that it becomes effective at a future date or upon the
42 occurrence of a future event or contingency.

43 2. If a power of attorney becomes effective upon
44 the occurrence of a future event or contingency, the
45 principal, in the power of attorney, may authorize one
46 or more persons to determine in a writing or other
47 record that the event or contingency has occurred.

48 3. If a power of attorney becomes effective upon
49 the principal's incapacity and the principal has not
50 authorized a person to determine whether the principal

1 is incapacitated or the person authorized is unable
2 or unwilling to make the determination, the power of
3 attorney becomes effective upon a determination in a
4 writing or other record by the occurrence of any of the
5 following:

6 a. A licensed physician or licensed psychologist
7 determines that the principal is incapacitated.

8 b. A licensed attorney at law, a judge, or an
9 appropriate governmental official determines that the
10 principal is incapacitated.

11 4. A person authorized by the principal in the
12 power of attorney to determine that the principal is
13 incapacitated may act as the principal's personal
14 representative pursuant to the federal Health Insurance
15 Portability and Accountability Act of 1996, Pub. L. No.
16 104-191, including amendments thereto and regulations
17 promulgated thereunder, to obtain access to the
18 principal's health care information and to communicate
19 with the principal's health care provider.

20 Sec. 12. NEW SECTION. 633B.110 Termination —
21 power of attorney or agent authority.

22 1. A power of attorney terminates when any of the
23 following occur:

24 a. The principal dies.

25 b. The principal becomes incapacitated, if the
26 power of attorney is not durable.

27 c. The principal revokes the power of attorney.

28 d. The power of attorney provides that it
29 terminates.

30 e. The purpose of the power of attorney is
31 accomplished.

32 f. The principal revokes the agent's authority
33 or the agent dies, becomes incapacitated, or resigns,
34 and the power of attorney does not provide for another
35 agent to act under the power of attorney.

36 2. An agent's authority terminates when any of the
37 following occur:

38 a. The principal revokes the authority.

39 b. The agent dies, becomes incapacitated, or
40 resigns.

41 c. An action is filed for the dissolution or
42 annulment of the agent's marriage to the principal
43 or for their legal separation, unless the power of
44 attorney otherwise provides.

45 d. The power of attorney terminates.

46 3. Unless the power of attorney otherwise
47 provides, an agent's authority is exercisable until
48 the agent's authority terminates under subsection 2,
49 notwithstanding a lapse of time since the execution of
50 the power of attorney.

1 4. Termination of a power of attorney or an agent's
2 authority under this section is not effective as to the
3 agent or another person that, without actual knowledge
4 of the termination, acts in good faith under the power
5 of attorney. An act so performed, unless otherwise
6 invalid or unenforceable, binds the principal and the
7 principal's successors in interest.

8 5. Incapacity of the principal of a power of
9 attorney that is not durable does not revoke or
10 terminate the power of attorney as to an agent or
11 other person that, without actual knowledge of the
12 incapacity, acts in good faith under the power of
13 attorney. An act so performed, unless otherwise
14 invalid or unenforceable, binds the principal and the
15 principal's successors in interest.

16 6. Except as provided in section 633B.103, the
17 execution of a general or plenary power of attorney
18 revokes all general or plenary powers of attorney
19 previously executed in this state by the principal,
20 but does not revoke a power of attorney limited to a
21 specific and identifiable action or transaction, which
22 action or transaction is still capable of performance
23 but has not yet been fully accomplished by the agent.

24 **Sec. 13. NEW SECTION. 633B.111 Coagents and**
25 **successor agents.**

26 1. A principal may designate two or more persons
27 to act as coagents. Unless the power of attorney
28 otherwise provides, all of the following apply to
29 actions of coagents:

30 a. A power held by coagents shall be exercised by
31 majority action.

32 b. If impasse occurs due to the failure to reach
33 a majority decision, any agent may petition the court
34 to decide the issue, or a majority of the agents may
35 consent to an alternative form of dispute resolution.

36 c. If one or more agents resigns or becomes unable
37 to act, the remaining coagents may act.

38 d. If a coagent is unavailable to perform duties
39 because of absence, illness, or other temporary
40 inability to perform, the remaining agents may exercise
41 their authority as if they were the only agents.

42 2. A principal may designate one or more successor
43 agents to act if an agent resigns, dies, becomes
44 incapacitated, is not qualified to serve, or declines
45 to serve. A principal may grant authority to designate
46 one or more successor agents to an agent or other
47 person designated by name, office, or function. Unless
48 the power of attorney otherwise provides, a successor
49 agent:

50 a. Has the same authority as that granted to the

1 original agent.

2 *b.* Shall not act until all predecessor agents have
3 resigned, died, become incapacitated, are no longer
4 qualified to serve, or have declined to serve.

5 3. Except as otherwise provided in the power of
6 attorney and subsection 4, an agent that does not
7 participate in or conceal a breach of fiduciary duty
8 committed by another agent, including a predecessor
9 agent, is not liable for the actions of the other
10 agent.

11 4. An agent with actual knowledge of a breach or
12 imminent breach of fiduciary duty by another agent
13 shall notify the principal and, if the principal is
14 incapacitated, take any action reasonably appropriate
15 in the circumstances to safeguard the principal's best
16 interest. An agent that fails to notify the principal
17 or take action as required by this subsection is liable
18 for the reasonably foreseeable damages that could have
19 been avoided if the agent had notified the principal
20 or taken such action.

21 Sec. 14. NEW SECTION. 633B.112 Reimbursement and
22 compensation of agent.

23 Unless the power of attorney otherwise provides, an
24 agent who is an individual is entitled to reimbursement
25 of expenses reasonably incurred on behalf of the
26 principal but not to compensation. If a power of
27 attorney does provide for compensation or if the agent
28 is a bank or trust company authorized to administer
29 trusts in Iowa, the compensation must be reasonable
30 under the circumstances.

31 Sec. 15. NEW SECTION. 633B.113 Agent's acceptance.

32 Except as otherwise provided in the power of
33 attorney, a person accepts appointment as an agent
34 under a power of attorney by exercising authority or
35 performing duties as an agent or by any other assertion
36 or conduct indicating acceptance.

37 Sec. 16. NEW SECTION. 633B.114 Agent's duties.

38 1. Notwithstanding provisions in the power of
39 attorney, an agent that has accepted appointment shall
40 act in conformity with all of the following:

41 *a.* In accordance with the principal's reasonable
42 expectations to the extent actually known by the agent
43 and otherwise in the principal's best interest.

44 *b.* In good faith.

45 *c.* Only within the scope of authority granted in
46 the power of attorney.

47 2. Except as otherwise provided in the power of
48 attorney, an agent that has accepted appointment shall
49 do all of the following:

50 *a.* Act loyally for the principal's benefit.

1 *b.* Act so as not to create a conflict of interest
2 that impairs the agent's ability to act impartially in
3 the principal's best interest.

4 *c.* Act with the care, competence, and diligence
5 ordinarily exercised by agents in similar
6 circumstances.

7 *d.* Keep a record of all receipts, disbursements,
8 and transactions made on behalf of the principal.

9 *e.* Cooperate with a person that has authority to
10 make health care decisions for the principal to carry
11 out the principal's reasonable expectations to the
12 extent actually known by the agent and, otherwise, act
13 in the principal's best interest.

14 *f.* Attempt to preserve the principal's estate
15 plan, to the extent actually known by the agent, if
16 preserving the plan is consistent with the principal's
17 best interest based upon all relevant factors,
18 including all of the following:

19 (1) The value and nature of the principal's
20 property.

21 (2) The principal's foreseeable obligations and
22 need for maintenance.

23 (3) Minimization of the principal's
24 taxes, including income, estate, inheritance,
25 generation-skipping transfer, and gift taxes.

26 (4) The principal's eligibility for a benefit, a
27 program, or assistance under a statute or regulation
28 or contract.

29 3. An agent that acts in good faith is not liable
30 to any beneficiary under the principal's estate plan
31 for failure to preserve the plan.

32 4. An agent that acts with care, competence, and
33 diligence for the best interest of the principal is not
34 liable solely because the agent also benefits from the
35 act or has an individual or conflicting interest in
36 relation to the property or affairs of the principal.

37 5. If an agent is selected by the principal because
38 of special skills or expertise possessed by the agent
39 or in reliance on the agent's representation that the
40 agent has special skills or expertise, the special
41 skills or expertise shall be considered in determining
42 whether the agent has acted with care, competence, and
43 diligence under the circumstances.

44 6. Absent a breach of duty to the principal, an
45 agent is not liable if the value of the principal's
46 property declines.

47 7. An agent that exercises authority to delegate to
48 another person the authority granted by the principal
49 or that engages another person on behalf of the
50 principal is not liable for an act, error of judgment,

1 or default of that person if the agent exercises care,
2 competence, and diligence in selecting and monitoring
3 the person.

4 8. Except as otherwise provided in the power
5 of attorney, an agent is not required to disclose
6 receipts, disbursements, or transactions conducted on
7 behalf of the principal unless ordered by a court or
8 requested by the principal, a guardian, a conservator,
9 another fiduciary acting for the principal, a
10 governmental agency having authority to protect
11 the welfare of the principal, or, upon the death of
12 the principal, by the personal representative or a
13 successor in interest of the principal's estate. If an
14 agent receives a request to disclose such information,
15 the agent shall comply with the request within thirty
16 days of the request or provide a writing or other
17 record substantiating why additional time is necessary.
18 Such additional time shall not exceed thirty days.

19 Sec. 17. NEW SECTION. 633B.115 Exoneration of
20 agent.

21 A provision in a power of attorney relieving an
22 agent of liability for breach of duty is binding on the
23 principal and the principal's successors in interest
24 except to the extent the provision does any of the
25 following:

26 1. Relieves the agent of liability for a breach of
27 duty committed dishonestly, with an improper motive, or
28 with reckless indifference to the purposes of the power
29 of attorney or the best interest of the principal.

30 2. Was included in the power of attorney as a
31 result of an abuse of a confidential or fiduciary
32 relationship with the principal.

33 Sec. 18. NEW SECTION. 633B.116 Judicial relief.

34 1. The following persons may petition a court to
35 construe a power of attorney or to review an agent's
36 conduct:

37 a. The principal or the agent.

38 b. A guardian, conservator, or other fiduciary
39 acting for the principal.

40 c. A person authorized to make health care
41 decisions for the principal.

42 d. The principal's spouse, parent, or descendant or
43 an individual who would qualify as a presumptive heir
44 of the principal.

45 e. A person named as a beneficiary to receive
46 any property, benefit, or contractual right upon
47 the principal's death or as a beneficiary of a trust
48 created by or for the principal that has a financial
49 interest in the principal's estate.

50 f. A governmental agency having regulatory

1 authority to protect the welfare of the principal.
2 *g.* The principal's caregiver or another person that
3 demonstrates sufficient interest in the principal's
4 welfare.
5 *h.* A person asked to accept the power of attorney.
6 *i.* A person designated by the principal in the
7 power of attorney.
8 2. Upon motion to dismiss by the principal, the
9 court shall dismiss a petition filed under this section
10 unless the court finds that the principal lacks the
11 capacity to revoke the agent's authority or the power
12 of attorney.
13 3. The costs of an action under this section shall
14 be assessed against the principal or the principal's
15 estate unless the court determines such costs and fees
16 should be assessed against the petitioner or the agent
17 for good cause shown.
18 **Sec. 19. NEW SECTION. 633B.117 Agent's liability.**
19 An agent that violates this chapter is liable to the
20 principal or the principal's successors in interest for
21 the amount required to do both of the following:
22 1. Restore the value of the principal's property to
23 what it would have been had the violation not occurred.
24 2. Reimburse the principal or the principal's
25 successors in interest for attorney fees and costs paid
26 on the agent's behalf.
27 **Sec. 20. NEW SECTION. 633B.118 Agent's resignation**
28 **— notice.**
29 Unless the power of attorney provides for a
30 different method for an agent's resignation, an agent
31 may resign by giving notice to the principal and,
32 if the principal is incapacitated, to any of the
33 following:
34 1. The conservator or guardian, if a conservator or
35 guardian has been appointed for the principal, and any
36 coagent or successor agent.
37 2. If there is no conservator, guardian, or coagent
38 or successor agent, the agent may give notice to any
39 of the following:
40 *a.* The principal's caregiver.
41 *b.* Any other person reasonably believed by the
42 agent to have sufficient interest in the principal's
43 welfare.
44 *c.* A governmental agency having regulatory
45 authority to protect the welfare of the principal.
46 **Sec. 21. NEW SECTION. 633B.119 Acknowledged power**
47 **of attorney — acceptance and reliance.**
48 1. For purposes of this section and section
49 633B.120, "*acknowledged*" means purportedly verified
50 before a notary public or other individual authorized

1 by law to take acknowledgments.

2 2. A person that in good faith accepts an
3 acknowledged power of attorney without actual knowledge
4 that the signature is not genuine may rely upon the
5 presumption under section 633B.105 that the signature
6 is genuine.

7 3. A person that in good faith accepts an
8 acknowledged power of attorney without actual knowledge
9 that the power of attorney is void, invalid, or
10 terminated, that the purported agent's authority
11 is void, invalid, or terminated, or that the agent
12 is exceeding or improperly exercising the agent's
13 authority may rely upon the power of attorney as if the
14 power of attorney were genuine, valid, and still in
15 effect, the agent's authority were genuine, valid, and
16 still in effect, and the agent had not exceeded and had
17 not improperly exercised the authority.

18 4. A person that is asked to accept an acknowledged
19 power of attorney may request, and rely upon, all of
20 the following without further investigation:

21 a. An agent's certification under penalty of
22 perjury of any factual matter concerning the principal,
23 agent, or power of attorney in substantially the same
24 form as set out in section 633B.302.

25 b. An English translation of the power of attorney
26 if the power of attorney contains, in whole or in part,
27 language other than English.

28 c. An opinion of agent's counsel as to any matter
29 of law concerning the power of attorney if the person
30 making the request provides the reason for the request
31 in a writing or other record.

32 5. An English translation or an opinion of counsel
33 requested under this section shall be provided at the
34 principal's expense unless the request is made more
35 than seven business days after the power of attorney is
36 presented for acceptance.

37 6. For purposes of this section and section
38 633B.120, a person who conducts activities through an
39 employee is without actual knowledge of a fact relating
40 to a power of attorney, a principal, or an agent if the
41 employee conducting the transaction involving the power
42 of attorney is without actual knowledge of the fact.

43 **Sec. 22. NEW SECTION. 633B.120 Refusal to accept**
44 **acknowledged power of attorney — liability.**

45 1. Except as otherwise provided in subsection 2,
46 all of the following shall apply to a person's actions
47 regarding an acknowledged power of attorney:

48 a. A person shall either accept an acknowledged
49 power of attorney or request a certification, a
50 translation, or an opinion of counsel under section

1 633B.119, subsection 4, no later than seven business
2 days after presentation of the power of attorney for
3 acceptance.

4 *b.* If a person requests a certification, a
5 translation, or an opinion of counsel under section
6 633B.119, subsection 4, the person shall accept the
7 power of attorney no later than five business days
8 after receipt of the certification, translation, or
9 opinion of counsel.

10 *c.* A person shall not require an additional or
11 different form of power of attorney for authority
12 granted in the power of attorney presented.

13 2. A person is not required to accept an
14 acknowledged power of attorney if any of the following
15 occur:

16 *a.* The person is not otherwise required to engage
17 in a transaction with the principal in the same
18 circumstances.

19 *b.* Engaging in a transaction with the agent or
20 the principal in the same circumstances would be
21 inconsistent with federal law.

22 *c.* The person has actual knowledge of the
23 termination of the agent's authority or of the power of
24 attorney before exercise of the power.

25 *d.* A request for a certification, a translation,
26 or an opinion of counsel under section 633B.119,
27 subsection 4, is refused.

28 *e.* The person in good faith believes that the
29 power is not valid or that the agent does not have the
30 authority to perform the act requested, whether or
31 not a certification, a translation, or an opinion of
32 counsel under section 633B.119, subsection 4, has been
33 requested or provided.

34 *f.* The person makes, or has actual knowledge that
35 another person has made, a report to the department
36 of human services stating a good-faith belief that
37 the principal may be subject to physical or financial
38 abuse, neglect, exploitation, or abandonment by the
39 agent or a person acting for or with the agent.

40 3. A person that refuses to accept an acknowledged
41 power of attorney in violation of this section is
42 subject to both of the following:

43 *a.* A court order mandating acceptance of the power
44 of attorney.

45 *b.* Liability for damages sustained by the principal
46 for reasonable attorney fees and costs incurred in any
47 action or proceeding that confirms the validity of
48 the power of attorney or mandates acceptance of the
49 power of attorney, provided that any such action must
50 be brought within one year of the initial request for

1 acceptance of the power of attorney.

2 Sec. 23. NEW SECTION. 633B.121 Principles of law
3 and equity.

4 Unless displaced by a provision of this chapter, the
5 principles of law and equity supplement this chapter.

6 Sec. 24. NEW SECTION. 633B.122 Laws applicable to
7 financial institutions and entities.

8 This chapter does not supersede any other law
9 applicable to financial institutions or other entities,
10 and the other law controls if inconsistent with this
11 chapter.

12 Sec. 25. NEW SECTION. 633B.123 Remedies under
13 other law.

14 The remedies under this chapter are not exclusive
15 and do not abrogate any right or remedy under the law
16 of this state other than this chapter.

17 Sec. 26. NEW SECTION. 633B.201 Authority —
18 specific and general.

19 1. An agent under a power of attorney may do
20 any of the following on behalf of the principal or
21 with the principal's property only if the power of
22 attorney expressly grants the agent the authority
23 and the exercise of the authority is not otherwise
24 prohibited by another agreement or instrument to which
25 the authority or property is subject:

26 a. Create, amend, revoke, or terminate an inter
27 vivos trust.

28 b. Make a gift.

29 c. Create or change rights of survivorship.

30 d. Create or change a beneficiary designation.

31 e. Delegate authority granted under the power of
32 attorney.

33 f. Waive the principal's right to be a beneficiary
34 of a joint and survivor annuity, including but not
35 limited to a survivor benefit under a retirement plan.

36 g. Exercise fiduciary powers that the principal has
37 authority to delegate.

38 h. Disclaim property, including but not limited to
39 a power of appointment.

40 2. Notwithstanding a grant of authority to do an
41 act described in subsection 1, unless the power of
42 attorney otherwise provides, an agent that is not an
43 ancestor, spouse, or descendant of the principal shall
44 not exercise authority under a power of attorney to
45 create in the agent, or in an individual to whom the
46 agent owes a legal obligation of support, an interest
47 in the principal's property, whether by gift, right of
48 survivorship, beneficiary designation, disclaimer, or
49 otherwise.

50 3. Subject to subsections 1, 2, 4, and 5, if a

1 power of attorney grants an agent authority to do
2 all acts that a principal could do, the agent has
3 the general authority described in sections 633B.204
4 through 633B.216.

5 4. Unless the power of attorney otherwise provides,
6 a grant of authority to make a gift is subject to
7 section 633B.217.

8 5. Subject to subsections 1, 2, and 4, if the
9 subjects over which authority is granted in a power of
10 attorney are similar or overlap, the broadest authority
11 controls.

12 6. Authority granted in a power of attorney is
13 exercisable with respect to property that the principal
14 has when the power of attorney is executed or acquires
15 later, whether or not the property is located in this
16 state and whether or not the authority is exercised or
17 the power of attorney is executed in this state.

18 7. An act performed by an agent pursuant to a
19 power of attorney has the same effect and inures
20 to the benefit of and binds the principal and the
21 principal's successors in interest as if the principal
22 had performed the act.

23 **Sec. 27. NEW SECTION. 633B.202 Incorporation of**
24 **authority.**

25 1. An agent has authority described in this chapter
26 if the power of attorney refers to general authority
27 with respect to the descriptive term for the subjects
28 stated in sections 633B.204 through 633B.217 or cites
29 the section in which the authority is described.

30 2. A reference in a power of attorney to general
31 authority with respect to the descriptive term for a
32 subject stated in sections 633B.204 through 633B.217 or
33 a citation to a section in sections 633B.204 through
34 633B.217 incorporates the entire section as if it were
35 set out in full in the power of attorney.

36 3. A principal may modify authority incorporated
37 by reference.

38 **Sec. 28. NEW SECTION. 633B.203 Construction of**
39 **authority generally.**

40 Except as otherwise provided in the power of
41 attorney, by executing a power of attorney that
42 incorporates by reference a subject described in
43 sections 633B.204 through 633B.217 or that grants
44 an agent authority to do all acts that a principal
45 could do pursuant to section 633B.201, subsection 3, a
46 principal authorizes the agent, with respect to that
47 subject, to do all of the following:

48 1. Demand, receive, and obtain by litigation or
49 otherwise, money or another thing of value to which the
50 principal is, may become, or claims to be entitled, and

1 conserve, invest, disburse, or use anything so received
2 or obtained for the purposes intended.

3 2. Contract in any manner with any person, on terms
4 agreeable to the agent, to accomplish a purpose of a
5 transaction and perform, rescind, cancel, terminate,
6 reform, restate, release, or modify the contract or
7 another contract made by or on behalf of the principal.

8 3. Execute, acknowledge, seal, deliver, file,
9 or record any instrument or communication the agent
10 considers desirable to accomplish a purpose of a
11 transaction, including but not limited to creating
12 at any time a schedule listing some or all of the
13 principal's property and attaching the instrument of
14 communication to the power of attorney.

15 4. Initiate, participate in, submit to alternative
16 dispute resolution, settle, oppose, or propose or
17 accept a compromise with respect to a claim existing
18 in favor of or against the principal or intervene in
19 litigation relating to the claim.

20 5. Seek on the principal's behalf the assistance of
21 a court or other governmental agency to carry out an
22 act authorized in the power of attorney.

23 6. Engage, compensate, and discharge an attorney,
24 accountant, discretionary investment manager, expert
25 witness, or other advisor.

26 7. Prepare, execute, and file a record, report, or
27 other document to safeguard or promote the principal's
28 interest under a statute, rule, or regulation.

29 8. Communicate with any representative or employee
30 of a government or governmental subdivision, agency, or
31 instrumentality, on behalf of the principal.

32 9. Access communications intended for, and
33 communicate on behalf of the principal, whether by
34 mail, electronic transmission, telephone, or other
35 means.

36 10. Do any lawful act with respect to the subject
37 and all property related to the subject.

38 Sec. 29. NEW SECTION. **633B.204 Real property.**

39 Unless the power of attorney otherwise provides and
40 subject to section 633B.201, language in a power of
41 attorney granting general authority with respect to
42 real property authorizes the agent to do all of the
43 following:

44 1. Demand, buy, lease, receive, accept as a gift or
45 as security for an extension of credit, or otherwise
46 acquire or reject an interest in real property or a
47 right incident to real property.

48 2. Sell; exchange; convey with or without
49 covenants, representations, or warranties; quitclaim;
50 release; surrender; retain title for security;

1 encumber; partition; consent to partitioning; be
2 subject to an easement or covenant; subdivide;
3 apply for zoning or other governmental permits; plat
4 or consent to platting; develop; grant an option
5 concerning; lease; sublease; contribute to an entity in
6 exchange for an interest in that entity; or otherwise
7 grant or dispose of an interest in real property or a
8 right incident to real property.

9 3. Pledge or mortgage an interest in real property
10 or right incident to real property as security to
11 borrow money or pay, renew, or extend the time of
12 payment of a debt of the principal or a debt guaranteed
13 by the principal.

14 4. Release, assign, satisfy, or enforce by
15 litigation or otherwise, a mortgage, deed of trust,
16 conditional sale contract, encumbrance, lien, or other
17 claim to real property which exists or is asserted.

18 5. Manage or conserve an interest in real property
19 or a right incident to real property owned or claimed
20 to be owned by the principal, including but not limited
21 to by doing all of the following:

22 a. Insuring against liability or casualty or other
23 loss.

24 b. Obtaining or regaining possession of or
25 protecting the interest or right by litigation or
26 otherwise.

27 c. Paying, assessing, compromising, or contesting
28 taxes or assessments or applying for and receiving
29 refunds in connection with them.

30 d. Purchasing supplies, hiring assistance or labor,
31 and making repairs or alterations to the real property.

32 6. Use, develop, alter, replace, remove, erect,
33 or install structures or other improvements upon real
34 property in or incident to which the principal has, or
35 claims to have, an interest or right.

36 7. Participate in a reorganization with respect
37 to real property or an entity that owns an interest
38 in or a right incident to real property and receive,
39 hold, and act with respect to stocks and bonds or
40 other property received in a plan of reorganization,
41 including by doing any of the following:

42 a. By selling or otherwise disposing of the stocks,
43 bonds, or other property.

44 b. By exercising or selling an option, right of
45 conversion, or similar right.

46 c. By exercising any voting rights in person or by
47 proxy.

48 8. Change the form of title of an interest in or
49 right incident to real property.

50 9. Dedicate to public use, with or without

1 consideration, easements or other real property
2 in which the principal has, or claims to have, an
3 interest.

4 Sec. 30. NEW SECTION. 633B.205 **Tangible personal**
5 **property.**

6 Unless the power of attorney otherwise provides and
7 subject to section 633B.201, language in a power of
8 attorney granting general authority with respect to
9 tangible personal property authorizes the agent to do
10 all of the following:

11 1. Demand, buy, receive, accept as a gift or as
12 security for an extension of credit, or otherwise
13 acquire or reject ownership or possession of tangible
14 personal property or an interest in tangible personal
15 property.

16 2. Sell; exchange; convey with or without
17 covenants, representations, or warranties; quitclaim;
18 release; surrender; create a security interest
19 in; grant options concerning; lease; sublease; or,
20 otherwise dispose of tangible personal property or an
21 interest in tangible personal property.

22 3. Grant a security interest in tangible personal
23 property or an interest in tangible personal property
24 as security to borrow money or pay, renew, or extend
25 the time of payment of a debt of the principal or a
26 debt guaranteed by the principal.

27 4. Release, assign, satisfy, or enforce by
28 litigation or otherwise, a security interest, lien, or
29 other claim on behalf of the principal, with respect to
30 tangible personal property or an interest in tangible
31 personal property.

32 5. Manage or conserve tangible personal property or
33 an interest in tangible personal property on behalf of
34 the principal, including by doing all of the following:

35 a. Insuring against liability or casualty or other
36 loss.

37 b. Obtaining or regaining possession of or
38 protecting the property or interest, by litigation or
39 otherwise.

40 c. Paying, assessing, compromising, or contesting
41 taxes or assessments or applying for and receiving
42 refunds in connection with taxes or assessments.

43 d. Moving the property from place to place.

44 e. Storing the property for hire or on a gratuitous
45 bailment.

46 f. Using and making repairs, alterations, or
47 improvements to the property.

48 6. Change the form of title of an interest in
49 tangible personal property.

50 Sec. 31. NEW SECTION. 633B.206 **Stocks and bonds.**

1 Unless the power of attorney otherwise provides and
2 subject to section 633B.201, language in a power of
3 attorney granting general authority with respect to
4 stocks and bonds authorizes the agent to do all of the
5 following:

- 6 1. Buy, sell, and exchange stocks and bonds.
- 7 2. Establish, continue, modify, or terminate an
8 account with respect to stocks and bonds.
- 9 3. Pledge stocks and bonds as security to borrow,
10 pay, renew, or extend the time of payment of a debt of
11 the principal.
- 12 4. Receive certificates and other evidence of
13 ownership with respect to stocks and bonds.
- 14 5. Exercise voting rights with respect to stocks
15 and bonds in person or by proxy, enter into voting
16 trusts, and consent to limitations on the right to
17 vote.

18 **Sec. 32. NEW SECTION. 633B.207 Commodities and**
19 **options.**

20 Unless the power of attorney otherwise provides and
21 subject to section 633B.201, language in a power of
22 attorney granting general authority with respect to
23 commodities and options authorizes the agent to do all
24 of the following:

- 25 1. Buy, sell, exchange, assign, settle, and
26 exercise commodity futures contracts and call or
27 put options on stocks or stock indexes traded on a
28 regulated option exchange.
- 29 2. Establish, continue, modify, and terminate
30 option accounts.

31 **Sec. 33. NEW SECTION. 633B.208 Banks and other**
32 **financial institutions.**

33 Unless the power of attorney otherwise provides and
34 subject to section 633B.201, language in a power of
35 attorney granting general authority with respect to
36 banks and other financial institutions authorizes the
37 agent to do all of the following:

- 38 1. Continue, modify, and terminate an account or
39 other banking arrangement made by or on behalf of the
40 principal.
- 41 2. Establish, modify, and terminate an account or
42 other banking arrangement with a bank, trust company,
43 savings and loan association, credit union, thrift
44 company, brokerage firm, or other financial institution
45 selected by the agent.
- 46 3. Contract for services available from a financial
47 institution, including but not limited to renting a
48 safe deposit box or space in a vault.
- 49 4. Withdraw, by check, order, electronic funds
50 transfer, or otherwise, money or property of the

1 principal deposited with or left in the custody of a
2 financial institution.

3 5. Receive statements of account, vouchers,
4 notices, and similar documents from a financial
5 institution and act with respect to them.

6 6. Enter a safe deposit box or vault and withdraw
7 or add to the contents.

8 7. Borrow money and pledge as security personal
9 property of the principal necessary to borrow money or
10 pay, renew, or extend the time of payment of a debt of
11 the principal or a debt guaranteed by the principal.

12 8. Make, assign, draw, endorse, discount,
13 guarantee, and negotiate promissory notes, checks,
14 drafts, and other negotiable or nonnegotiable paper
15 of the principal or payable to the principal or the
16 principal's order, transfer money, receive the cash
17 or other proceeds of those transactions, and accept a
18 draft drawn by a person upon the principal and pay the
19 promissory note, check, draft, or other negotiable or
20 nonnegotiable paper when due.

21 9. Receive for the principal and act upon a sight
22 draft, warehouse receipt, or other document of title
23 whether tangible or electronic, or any other negotiable
24 or nonnegotiable instrument.

25 10. Apply for, receive, and use letters of credit,
26 credit and debit cards, electronic transaction
27 authorizations, and traveler's checks from a financial
28 institution and give an indemnity or other agreement in
29 connection with letters of credit.

30 11. Consent to an extension of the time of payment
31 with respect to commercial paper or a financial
32 transaction with a financial institution.

33 **Sec. 34. NEW SECTION. 633B.209 Operation of entity**
34 **or business.**

35 Subject to the terms of a document or an agreement
36 governing an entity or business or an entity or
37 business ownership interest, and subject to section
38 633B.201, and unless the power of attorney otherwise
39 provides, language in a power of attorney granting
40 general authority with respect to operation of an
41 entity or business authorizes the agent to do all of
42 the following:

43 1. Operate, buy, sell, enlarge, reduce, or
44 terminate an ownership interest.

45 2. Perform a duty or discharge a liability and
46 exercise in person or by proxy a right, power,
47 privilege, or option that the principal has, may have,
48 or claims to have.

49 3. Enforce the terms of an ownership agreement.

50 4. Initiate, participate in, submit to alternative

1 dispute resolution, settle, oppose, or propose or
2 accept a compromise with respect to litigation to
3 which the principal is a party because of an ownership
4 interest.

5 5. Exercise in person or by proxy or enforce by
6 litigation or otherwise, a right, power, privilege,
7 or option the principal has or claims to have as the
8 holder of stocks and bonds.

9 6. Initiate, participate in, submit to alternative
10 dispute resolution, settle, oppose, or propose or
11 accept a compromise with respect to litigation to which
12 the principal is a party concerning stocks and bonds.

13 7. Do all of the following with respect to an
14 entity or business owned solely by the principal:

15 a. Continue, modify, renegotiate, extend, and
16 terminate a contract made by or on behalf of the
17 principal with respect to the entity or business before
18 execution of the power of attorney.

19 b. Determine all of the following:

20 (1) The location of the entity or business
21 operation.

22 (2) The nature and extent of the entity or
23 business.

24 (3) The methods of manufacturing, selling,
25 merchandising, financing, accounting, and advertising
26 employed in the operation of the entity or business.

27 (4) The amount and types of insurance carried by
28 the entity or business.

29 (5) The mode of engaging, compensating, and dealing
30 with the employees, accountants, attorneys, or other
31 advisors of the entity or business.

32 c. Change the name or form of organization under
33 which the entity or business is operated and enter into
34 an ownership agreement with other persons to take over
35 all or part of the operation of the entity or business.

36 d. Demand and receive money due or claimed by the
37 principal or on the principal's behalf in the operation
38 of the entity or business and control and disburse the
39 money in the operation of the entity or business.

40 8. Inject needed capital into an entity or business
41 in which the principal has an interest.

42 9. Join in a plan of reorganization, consolidation,
43 conversion, domestication, or merger of the entity or
44 business.

45 10. Sell or liquidate all or part of the entity or
46 business.

47 11. Establish the value of an entity or business
48 under a buyout agreement to which the principal is a
49 party.

50 12. Prepare, sign, file, and deliver reports,

1 compilations of information, returns, or other papers
2 with respect to an entity or business and make related
3 payments.

4 13. Pay, compromise, or contest taxes, assessments,
5 fines, or penalties and perform any other act to
6 protect the principal from illegal or unnecessary
7 taxation, assessments, fines, or penalties with respect
8 to an entity or business, including but not limited to
9 attempts to recover, in any manner permitted by law,
10 money paid before or after the execution of the power
11 of attorney.

12 Sec. 35. NEW SECTION. 633B.210 Insurance and
13 annuities.

14 Unless the power of attorney otherwise provides and
15 subject to section 633B.201, language in a power of
16 attorney granting general authority with respect to
17 insurance and annuities authorizes the agent to do all
18 of the following:

19 1. Continue, pay the premium or make a contribution
20 on, modify, exchange, rescind, release, or terminate
21 a contract procured by or on behalf of the principal
22 which insures or provides an annuity to either
23 the principal or another person whether or not the
24 principal is a beneficiary under the contract.

25 2. Procure new, different, and additional contracts
26 of insurance and annuities for the principal and the
27 principal's spouse, children, and other dependents, and
28 select the amount, type of insurance or annuity, and
29 mode of payment.

30 3. Pay the premium or make a contribution on,
31 modify, exchange, rescind, release, or terminate a
32 contract of insurance or annuity procured by the agent.

33 4. Apply for and receive a loan secured by a
34 contract of insurance or annuity.

35 5. Surrender and receive the cash surrender value
36 on a contract of insurance or annuity.

37 6. Exercise an election.

38 7. Exercise investment powers available under a
39 contract of insurance or annuity.

40 8. Change the manner of paying premiums on a
41 contract of insurance or annuity.

42 9. Change or convert the type of insurance or
43 annuity with respect to which the principal has or
44 claims to have authority described in this section.

45 10. Apply for and procure a benefit or assistance
46 under a statute, rule, or regulation to guarantee or
47 pay premiums of a contract of insurance on the life of
48 the principal.

49 11. Collect, sell, assign, hypothecate, borrow
50 against, or pledge the interest of the principal in a

1 contract of insurance or annuity.
2 12. Select the form and timing of the payment of
3 proceeds from a contract of insurance or annuity.
4 13. Pay, from proceeds or otherwise, compromise
5 or contest, and apply for refunds in connection with
6 a tax or assessment levied by a taxing authority with
7 respect to a contract of insurance or annuity or its
8 proceeds or liability accruing by reason of the tax or
9 assessment.
10 Sec. 36. NEW SECTION. 633B.211 Estates, trusts,
11 and other beneficial interests.
12 1. In this section, "*estate, trust, or other*
13 *beneficial interest*" means a trust, probate
14 estate, guardianship, conservatorship, escrow, or
15 custodianship, or a fund from which the principal is,
16 may become, or claims to be, entitled to a share or
17 payment.
18 2. Unless the power of attorney otherwise provides,
19 language in a power of attorney granting general
20 authority with respect to estates, trusts, and other
21 beneficial interests authorizes the agent to do all of
22 the following:
23 a. Accept, receive, provide a receipt for, sell,
24 assign, pledge, or exchange a share in or payment from
25 an estate, trust, or other beneficial interest.
26 b. Demand or obtain money or another thing of value
27 to which the principal is, may become, or claims to
28 be, entitled by reason of an estate, trust, or other
29 beneficial interest, by litigation or otherwise.
30 c. Exercise for the benefit of the principal a
31 presently exercisable general power of appointment held
32 by the principal.
33 d. Initiate, participate in, submit to alternative
34 dispute resolution, settle, oppose, or propose or
35 accept a compromise with respect to litigation to
36 ascertain the meaning, validity, or effect of a deed,
37 will, declaration of trust, or other instrument or
38 transaction affecting the interest of the principal.
39 e. Initiate, participate in, submit to alternative
40 dispute resolution, settle, oppose, or propose or
41 accept a compromise with respect to litigation to
42 remove, substitute, or surcharge a fiduciary.
43 f. Conserve, invest, disburse, or use any assets
44 received for an authorized purpose.
45 g. Transfer an interest of the principal in real
46 property, stocks and bonds, accounts with financial
47 institutions or securities intermediaries, insurance,
48 annuities, and other property to the trustee of a
49 revocable trust created by the principal as settlor.
50 h. Reject, renounce, disclaim, release, or consent

1 to a reduction in or modification of a share in or
2 payment from an estate, trust, or other beneficial
3 interest.

4 Sec. 37. NEW SECTION. 633B.212 Claims and
5 litigation.

6 Unless the power of attorney otherwise provides and
7 subject to section 633B.201, language in a power of
8 attorney granting general authority with respect to
9 claims and litigation authorizes the agent to do all
10 of the following:

11 1. Assert and maintain before a court or
12 administrative agency a claim, claim for relief,
13 cause of action, counterclaim, offset, recoupment,
14 or defense, including but not limited to an action
15 to recover property or other thing of value, recover
16 damages sustained by the principal, eliminate or
17 modify tax liability, or seek an injunction, specific
18 performance, or other relief.

19 2. Bring an action to determine adverse claims or
20 intervene or otherwise participate in litigation.

21 3. Seek an attachment, garnishment, or other
22 preliminary, provisional, or intermediate relief and
23 use an available procedure to effect or satisfy a
24 judgment, order, or decree.

25 4. Make or accept a tender, offer of judgment, or
26 admission of facts, submit a controversy on an agreed
27 statement of facts, consent to examination, and bind
28 the principal in litigation.

29 5. Submit to alternative dispute resolution, or
30 settle, propose, or accept a compromise.

31 6. Waive the issuance and service of process upon
32 the principal, accept service of process, appear for
33 the principal, designate persons upon which process
34 directed to the principal may be served, execute and
35 file or deliver stipulations on the principal's behalf,
36 verify pleadings, seek appellate review, procure and
37 give surety and indemnity bonds, contract and pay for
38 the preparation and printing of records and briefs,
39 receive, execute, and file or deliver a consent,
40 waiver, release, confession of judgment, satisfaction
41 of judgment, notice, agreement, or other instrument in
42 connection with the prosecution, settlement, or defense
43 of a claim or litigation.

44 7. Act for the principal with respect to bankruptcy
45 or insolvency, whether voluntary or involuntary,
46 concerning the principal or some other person, or
47 with respect to a reorganization, receivership, or
48 application for the appointment of a receiver or
49 trustee which affects an interest of the principal in
50 property or other thing of value.

1 8. Pay a judgment, award, or order against the
2 principal or a settlement made in connection with a
3 claim or litigation.

4 9. Receive money or other thing of value paid in
5 settlement of or as proceeds of a claim or litigation.

6 Sec. 38. NEW SECTION. 633B.213 Personal and family
7 maintenance.

8 1. Unless the power of attorney otherwise provides
9 and subject to subsection 633B.201, language in a power
10 of attorney granting general authority with respect to
11 personal and family maintenance authorizes the agent
12 to do all of the following:

13 a. Perform the acts necessary to maintain the
14 customary standard of living of the principal, the
15 principal's spouse, and the following individuals,
16 whether living when the power of attorney is executed
17 or later born:

18 (1) The principal's minor children.

19 (2) The principal's adult children who are pursuing
20 a postsecondary school education and are under the age
21 of twenty-five.

22 (3) The principal's parents or the parents of the
23 principal's spouse, if the principal had established a
24 pattern of such payments.

25 (4) Any other individuals legally entitled to be
26 supported by the principal.

27 b. Make periodic payments of child support and
28 other family maintenance required by a court or
29 governmental agency or an agreement to which the
30 principal is a party.

31 c. Provide living quarters for the individuals
32 described in paragraph "a" by any of the following:

33 (1) Purchase, lease, or other contract.

34 (2) Paying the operating costs, including but not
35 limited to interest, amortization payments, repairs,
36 improvements, and taxes, for premises owned by the
37 principal or occupied by those individuals.

38 d. Provide funds for shelter, clothing, food,
39 appropriate education, including postsecondary and
40 vocational education, and other current living costs
41 for the individuals described in paragraph "a" to
42 enable those individuals to maintain their customary
43 standard of living.

44 e. Pay expenses for necessary health care and
45 custodial care on behalf of the individuals described
46 in paragraph "a".

47 f. Act as the principal's personal representative
48 pursuant to the federal Health Insurance Portability
49 and Accountability Act of 1996, Pub. L. No. 104-191,
50 including amendments thereto and regulations

1 promulgated thereunder, in making decisions related to
2 past, present, or future payments for the provision of
3 health care consented to by the principal or anyone
4 authorized under the law of this state to consent to
5 health care on behalf of the principal.

6 *g.* Continue any provision made by the principal for
7 automobiles or other means of transportation, including
8 registering, licensing, insuring, and replacing them,
9 for the individuals described in paragraph "a".

10 *h.* Maintain credit and debit accounts for the
11 convenience of the individuals described in paragraph
12 "a" and open new accounts.

13 *i.* Continue payments or contributions incidental
14 to the membership or affiliation of the principal in a
15 religious institution, club, society, order, or other
16 organization.

17 2. Authority with respect to personal and family
18 maintenance is neither dependent upon, nor limited
19 by, authority that an agent may or may not have with
20 respect to gifts under this chapter.

21 **Sec. 39. NEW SECTION. 633B.214 Benefits from**
22 **governmental programs or civil or military service.**

23 1. In this section, "*benefits from governmental*
24 *programs or civil or military service*" means any
25 benefit, program, or assistance provided under a
26 statute, rule, or regulation relating to but not
27 limited to social security, Medicare, or Medicaid.

28 2. Unless the power of attorney otherwise provides,
29 language in a power of attorney granting general
30 authority with respect to benefits from governmental
31 programs or civil or military service authorizes the
32 agent to do all of the following:

33 *a.* Execute vouchers in the name of the principal
34 for allowances and reimbursements payable by the United
35 States, a foreign government, or a state or subdivision
36 of a state to the principal, including but not limited
37 to allowances and reimbursements for transportation
38 of the individuals described in section 633B.213,
39 subsection 1, paragraph "a", and for shipment of the
40 household effects of such individuals.

41 *b.* Take possession and order the removal and
42 shipment of property of the principal from a post,
43 warehouse, depot, dock, or other place of storage
44 or safekeeping, either governmental or private, and
45 execute and deliver a release, voucher, receipt, bill
46 of lading, shipping ticket, certificate, or other
47 instrument for that purpose.

48 *c.* Enroll in, apply for, select, reject, change,
49 amend, or discontinue, on the principal's behalf, a
50 benefit or program.

1 d. Prepare, file, and maintain a claim of the
2 principal for a benefit or assistance, financial or
3 otherwise, to which the principal may be entitled under
4 a statute, rule, or regulation.

5 e. Initiate, participate in, submit to alternative
6 dispute resolution, settle, oppose, or propose
7 or accept a compromise with respect to litigation
8 concerning any benefit or assistance the principal
9 may be entitled to receive under a statute, rule, or
10 regulation.

11 f. Receive the financial proceeds of a claim
12 described in paragraph "d" and conserve, invest,
13 disburse, or use for a lawful purpose anything so
14 received.

15 Sec. 40. NEW SECTION. 633B.215 Retirement plans.

16 1. In this section, "retirement plan" means a plan
17 or account created by an employer, the principal, or
18 another individual to provide retirement benefits
19 or deferred compensation in which the principal is
20 a participant, beneficiary, or owner, including but
21 not limited to a plan or account under the following
22 sections of the Internal Revenue Code:

23 a. An individual retirement account in accordance
24 with section 408.

25 b. A Roth individual retirement account established
26 under section 408A.

27 c. A deemed individual retirement account under
28 section 408(q).

29 d. An annuity or mutual fund custodial account
30 under section 403(b).

31 e. A pension, profit-sharing, stock bonus, or other
32 retirement plan qualified under section 401(a).

33 f. An eligible deferred compensation plan under
34 section 457(b).

35 g. A nonqualified deferred compensation plan under
36 section 409A.

37 2. Unless the power of attorney otherwise provides,
38 language in a power of attorney granting general
39 authority with respect to retirement plans authorizes
40 the agent to do all of the following:

41 a. Select the form and timing of payments under a
42 retirement plan and withdraw benefits from a plan.

43 b. Make a rollover, including a direct
44 trustee-to-trustee rollover of benefits from one
45 retirement plan to another.

46 c. Establish a retirement plan in the principal's
47 name.

48 d. Make contributions to a retirement plan.

49 e. Exercise investment powers available under a
50 retirement plan.

1 f. Borrow from, sell assets to, or purchase assets
2 from a retirement plan.

3 Sec. 41. NEW SECTION. 633B.216 Taxes.

4 Unless the power of attorney otherwise provides,
5 language in a power of attorney granting general
6 authority with respect to taxes authorizes the agent
7 to do all of the following:

8 1. Prepare, sign, and file federal, state, local,
9 and foreign income, gift, payroll, property, Federal
10 Insurance Contributions Act returns and other tax
11 returns, claims for refunds, requests for extension
12 of time, petitions regarding tax matters, and any
13 other tax-related documents, including receipts,
14 offers, waivers, consents, including but not limited
15 to consents and agreements under section 2032A of the
16 Internal Revenue Code, closing agreements, and any
17 power of attorney required by the Internal Revenue
18 Service or other taxing authority with respect to a tax
19 year upon which the statute of limitations has not run.

20 2. Pay taxes due, collect refunds, post bonds,
21 receive confidential information, and contest
22 deficiencies determined by the Internal Revenue Service
23 or other taxing authority.

24 3. Exercise any election available to the principal
25 under federal, state, local, or foreign tax law.

26 4. Act for the principal in all tax matters for
27 all periods before the Internal Revenue Service or any
28 other taxing authority.

29 Sec. 42. NEW SECTION. 633B.217 Gifts.

30 1. In this section, a gift "*for the benefit of*" a
31 person includes a gift to a trust, an account under
32 a uniform transfers to minors Act, and a qualified
33 state tuition program exempt from taxation pursuant to
34 section 529 of the Internal Revenue Code.

35 2. Unless the power of attorney otherwise provides,
36 language in a power of attorney granting general
37 authority with respect to gifts authorizes the agent
38 only to do all of the following:

39 a. Make a gift of any of the principal's property
40 outright to, or for the benefit of, a person, including
41 but not limited to by the exercise of a presently
42 exercisable general power of appointment held by
43 the principal, in an amount per donee not to exceed
44 the annual dollar limits of the federal gift tax
45 exclusion under section 2503(b) of the Internal Revenue
46 Code without regard to whether the federal gift tax
47 exclusion applies to the gift or if the principal's
48 spouse agrees to consent to a split gift pursuant to
49 section 2513 of the Internal Revenue Code in an amount
50 per donee not to exceed twice the annual federal gift

1 tax exclusion limit.
2 *b.* Consent to the splitting of a gift made by the
3 principal's spouse pursuant to section 2513 of the
4 Internal Revenue Code in an amount per donee not to
5 exceed the aggregate annual gift tax exclusions for
6 both spouses.
7 3. An agent may make a gift of the principal's
8 property only as the agent determines is consistent
9 with the principal's objectives if actually known by
10 the agent and, if unknown, as the agent determines is
11 consistent with the principal's best interest based on
12 all relevant factors, including but not limited to all
13 of the following:
14 *a.* The value and nature of the principal's
15 property.
16 *b.* The principal's foreseeable obligations and need
17 for maintenance.
18 *c.* The minimization of taxes, including but
19 not limited to income, estate, inheritance,
20 generation-skipping transfer, and gift taxes.
21 *d.* Eligibility for a benefit, a program, or
22 assistance under a statute, rule, or regulation.
23 *e.* The principal's personal history of making or
24 joining in making gifts.
25 Sec. 43. NEW SECTION. 633B.301 Power of attorney
26 — form.

27 A document substantially in the following form may
28 be used to create a statutory power of attorney that
29 has the meaning and effect prescribed by this chapter:

30 IOWA STATUTORY POWER OF ATTORNEY FORM

31 1. POWER OF ATTORNEY
32 This power of attorney authorizes another person
33 (your agent) to make decisions concerning your property
34 for you (the principal). Your agent will be able to
35 make decisions and act with respect to your property
36 (including but not limited to your money) whether or
37 not you are able to act for yourself. The meaning
38 of authority over subjects listed on this form is
39 explained in the Iowa Uniform Power of Attorney Act,
40 Iowa Code chapter 633B.

41 This power of attorney does not authorize the agent
42 to make health care decisions for you.

43 You should select someone you trust to serve as your
44 agent. Unless you specify otherwise, generally the
45 agent's authority will continue until you die or revoke
46 the power of attorney or the agent resigns or is unable
47 to act for you.

48 Your agent is not entitled to compensation
49 unless you state otherwise in the optional Special
50 Instructions.

1 This form provides for designation of one agent. If
2 you wish to name more than one agent, you may name a
3 coagent in the optional Special Instructions. Coagents
4 must act by majority rule unless you provide otherwise
5 in the optional Special Instructions.

6 If your agent is unable or unwilling to act for you,
7 your power of attorney will end unless you have named a
8 successor agent. You may also name a second successor
9 agent.

10 This power of attorney becomes effective immediately
11 upon signature and acknowledgment unless you state
12 otherwise in the optional Special Instructions.

13 If you have questions about this power of attorney
14 or the authority you are granting to your agent, you
15 should seek legal advice before signing this form.

16 DESIGNATION OF AGENT

17 I _____ (name of principal) name
18 the following person as my agent:

19 Name of Agent

20 _____
21 Agent's Address

22 _____
23 Agent's Telephone Number

24 _____
25 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

26 If my agent is unable or unwilling to act for me, I
27 name as my successor agent:

28 Name of Successor Agent

29 _____
30 Successor Agent's Address

31 _____
32 Successor Agent's Telephone Number

33 _____
34 If my successor agent is unable or unwilling to act
35 for me, I name as my second successor agent:

36 Name of Second Successor Agent

37 _____
38 Second Successor Agent's Address

39 _____
40 Second Successor Agent's Telephone Number

41 _____
42 GRANT OF GENERAL AUTHORITY

43 I grant my agent and any successor agent general
44 authority to act for me with respect to the following
45 subjects as defined in the Iowa Uniform Power of
46 Attorney Act, Iowa Code chapter 633B:

47 (Initial each subject you want to include in the
48 agent's general authority. If you wish to grant
49 general authority over all of the subjects you may

1 initial "All Preceding Subjects" instead of initialing
2 each subject.)

- 3 ___ Real Property
- 4 ___ Tangible Personal Property
- 5 ___ Stocks and Bonds
- 6 ___ Commodities and Options
- 7 ___ Banks and Other Financial Institutions
- 8 ___ Operation of Entity or Business
- 9 ___ Insurance and Annuities
- 10 ___ Estates, Trusts, and Other Beneficial Interests
- 11 ___ Claims and Litigation
- 12 ___ Personal and Family Maintenance
- 13 ___ Benefits from Governmental Programs or Civil or
14 Military Service
- 15 ___ Retirement Plans
- 16 ___ Taxes
- 17 ___ All Preceding Subjects

18 GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

19 My agent shall not do any of the following specific
20 acts for me unless I have initialed the specific
21 authority listed below:

22 (Caution: Granting any of the following will give
23 your agent the authority to take actions that could
24 significantly reduce your property or change how your
25 property is distributed at your death. Initial only
26 the specific authority you WANT to give your agent.)

27 ___ Amend, revoke, or terminate a revocable inter
28 vivos trust, if authorized by the trust.

29 ___ Agree to the amendment or termination of any
30 other inter vivos trust.

31 ___ Make a gift to an individual who is not an
32 agent, subject to the limitations of the Iowa Uniform
33 Power of Attorney Act, Iowa Code section 633B.217, and
34 any special instructions in this power of attorney.

35 Make gifts, either direct or indirect, to my agent
36 acting under this power of attorney as follows:

37 ___ Any such gift must be approved in writing by
38 _____; or

39 ___ No third party approval is needed.

40 ___ Authorize another person to exercise the
41 authority granted under this power of attorney.

42 ___ Waive the principal's right to be a beneficiary
43 of a joint and survivor annuity, including a survivor
44 benefit under a retirement plan.

45 ___ Exercise fiduciary powers that the principal has
46 authority to delegate.

47 ___ Disclaim or refuse an interest in property,
48 including a power of appointment.

49 LIMITATION ON AGENT'S AUTHORITY

1 An agent that is not my ancestor, spouse, or
2 descendant shall not use my property to benefit the
3 agent or a person to whom the agent owes an obligation
4 of support unless I have included that authority in the
5 optional Special Instructions.

6 SPECIAL INSTRUCTIONS (OPTIONAL)

7 You may give special instructions on the following
8 lines:

9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

20 _____ shall have the authority
21 to request an accounting of any agent.

22 EFFECTIVE DATE

23 This power of attorney is effective immediately
24 upon signature and acknowledgment unless I have stated
25 otherwise in the optional Special Instructions.

26 NOMINATION OF CONSERVATOR AND GUARDIAN (OPTIONAL)

27 If it becomes necessary for a court to appoint a
28 conservator of my estate or guardian of my person, I
29 nominate the following person(s) for appointment:

30 Name of Nominee for Conservator of My Estate

31 _____
32 Nominee's Address

33 _____
34 Nominee's Telephone Number

35 _____
36 Name of Nominee for Guardian of My Person

37 _____
38 Nominee's Address

39 _____
40 Nominee's Telephone Number

41 _____
42 RELIANCE ON THIS POWER OF ATTORNEY

43 Any person, including my agent, may rely upon
44 the validity of this power of attorney or a copy of
45 it unless that person knows it has terminated or is
46 invalid.

47 SIGNATURE AND ACKNOWLEDGMENT

48 _____
49 Your Signature _____ Date _____
50 _____

1 Your Name Printed
2 _____
3 _____
4 Your Address
5 _____
6 Your Telephone Number
7 State of _____
8 County of _____
9 This document was acknowledged before me on
10 _____ (date), by _____
11 (name of principal)
12 _____ (Seal, if
13 any)
14 Signature of Notary
15 My commission expires _____
16 This document prepared by
17 _____
18 _____

19 2. IMPORTANT INFORMATION FOR AGENT
20 AGENT'S DUTIES

21 When you accept the authority granted under this
22 power of attorney, a special legal relationship
23 is created between the principal and you. This
24 relationship imposes upon you legal duties that
25 continue until you resign or the power of attorney
26 is terminated or revoked. You must do all of the
27 following:
28 Do what you know the principal reasonably expects
29 you to do with the principal's property or, if you
30 do not know the principal's expectations, act in the
31 principal's best interest.
32 Act in good faith.
33 Do nothing beyond the authority granted in this
34 power of attorney.
35 Disclose your identity as an agent whenever you act
36 for the principal by writing or printing the name of
37 the principal and signing your own name as agent in the
38 following manner:
39 _____ (principal's name) by
40 _____ (your signature) as Agent
41 Unless the Special Instructions in this power of
42 attorney state otherwise, you must also do all of the
43 following:
44 Act loyally for the principal's benefit.
45 Avoid conflicts that would impair your ability to
46 act in the principal's best interest.
47 Act with care, competence, and diligence.
48 Keep a record of all receipts, disbursements, and
49 transactions made on behalf of the principal.

1 Cooperate with any person that has authority to make
2 health care decisions for the principal to do what you
3 know the principal reasonably expects or, if you do
4 not know the principal's expectations, to act in the
5 principal's best interest.

6 Attempt to preserve the principal's estate plan if
7 you know the plan and preserving the plan is consistent
8 with the principal's best interest.

9 **TERMINATION OF AGENT'S AUTHORITY**

10 You must stop acting on behalf of the principal
11 if you learn of any event that terminates this power
12 of attorney or your authority under this power of
13 attorney. Events that terminate a power of attorney or
14 your authority to act under a power of attorney include
15 any of the following:

16 Death of the principal.

17 The principal's revocation of the power of attorney
18 or your authority.

19 The occurrence of a termination event stated in the
20 power of attorney.

21 The purpose of the power of attorney is fully
22 accomplished.

23 If you are married to the principal, a legal action
24 is filed with a court to end your marriage, or for your
25 legal separation, unless the Special Instructions in
26 this power of attorney state that such an action will
27 not terminate your authority.

28 **LIABILITY OF AGENT**

29 The meaning of the authority granted to you is
30 defined in the Iowa Uniform Power of Attorney Act, Iowa
31 Code chapter 633B. If you violate the Iowa Uniform
32 Power of Attorney Act, Iowa Code chapter 633B, or act
33 outside the authority granted, you may be liable for
34 any damages caused by your violation.

35 If there is anything about this document or your
36 duties that you do not understand, you should seek
37 legal advice.

38 **Sec. 44. NEW SECTION. 633B.302 Agent's**
39 **certification — optional form.**

40 The following optional form may be used by an agent
41 to certify facts concerning a power of attorney:

42 **IOWA STATUTORY POWER OF ATTORNEY AGENT'S CERTIFICATION**
43 **FORM**

44 **AGENT'S CERTIFICATION OF VALIDITY OF POWER OF ATTORNEY**
45 **AND AGENT'S AUTHORITY**

46 State of _____

47 County of _____

48 I, _____ (name of

49 agent), certify under penalty of perjury that

50 _____ (name of principal)

1 granted me authority as an agent or successor agent in
2 a power of attorney dated _____.

3 I further certify all of the following to my
4 knowledge:

5 The principal is alive and has not revoked the power
6 of attorney or the Power of Attorney and my authority
7 to act under the Power of Attorney have not terminated.

8 If the power of attorney was drafted to become
9 effective upon the happening of an event or
10 contingency, the event or contingency has occurred.

11 If I was named as a successor agent, the prior agent
12 is no longer able or willing to serve.

13 _____
14 _____
15 _____.

(Insert other relevant statements)

17 SIGNATURE AND ACKNOWLEDGMENT

18 _____
19 Agent's Signature _____ Date

20 _____
21 Agent's Name Printed

22 _____
23 _____
24 Agent's Address

25 _____
26 Agent's Telephone Number

27 This document was acknowledged before me on
28 _____ (date), by _____

29 (name of agent)

30 _____ (Seal, if
31 any)

32 Signature of Notary
33 My commission expires _____

34 This document prepared by
35 _____
36 _____

37 **Sec. 45. NEW SECTION. 633B.401 Uniformity of**
38 **application and construction.**

39 In applying and construing this chapter,
40 consideration shall be given to the need to promote
41 uniformity of the law with respect to the subject
42 matter of this chapter among states that enact the
43 uniform power of attorney Act.

44 **Sec. 46. NEW SECTION. 633B.402 Relation to**
45 **Electronic Signatures in Global and National Commerce**
46 **Act.**

47 This chapter modifies, limits, and supersedes the
48 federal Electronic Signatures in Global and National
49 Commerce Act, 15 U.S.C. §7001 et seq., but does not
50 modify, limit, or supersede section 101(c) of that Act,

1 15 U.S.C. §7001(c), or authorize electronic delivery of
2 any of the notices described in section 103(b) of that
3 Act, 15 U.S.C. §7003(b).

4 Sec. 47. NEW SECTION. **633B.403 Applicability —**
5 **powers of attorney — agents.**

6 1. This chapter applies to a power of attorney,
7 regardless of whether the power of attorney was created
8 before, on, or after July 1, 2014.

9 2. This chapter applies to all proceedings
10 concerning a power of attorney commenced on or after
11 July 1, 2014.

12 3. This chapter applies to all proceedings
13 concerning a power of attorney commenced before July
14 1, 2014, unless the court finds that application of a
15 provision of this chapter would substantially interfere
16 with the effective conduct of the proceedings or the
17 rights of the parties or other interested persons. In
18 that case, the provision does not apply and the court
19 shall apply prior law.

20 4. *a.* This chapter applies to all acts taken by an
21 agent on or after July 1, 2014.

22 *b.* This chapter does not apply to acts taken by an
23 agent prior to July 1, 2014.

24 Sec. 48. REPEAL. Sections 633B.1 and 633B.2, Code
25 2014, are repealed.>

GUSTAFSON of Madison